

COMMISSION DIRECTIVE

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| ADMINISTRATIVE MATTERS | <input type="checkbox"/> | DATE | <u>March 5, 2008</u> |
| MOTOR CARRIER MATTERS | <input type="checkbox"/> | DOCKET NO. | <u>2005-385-E</u> |
| UTILITIES MATTERS | <input checked="" type="checkbox"/> | | <u></u> |

SUBJECT:

DOCKET NO. 2005-385-E – Petition of the Office of Regulatory Staff to Establish Dockets to Consider Implementing the Requirements of Section 1251 (Net Metering and Additional Standards) of the Energy Policy Act of 2005 – Discuss with the Commission a Motion to Establish a Second Hearing Filed by Pamela Greenlaw.

COMMISSION ACTION:

I would like to make a few comments, because it seems that there may be some misunderstanding about the Commission's actions and I believe that it would be useful to review where we are in this matter:

On August 30th, 2007, the Commission issued an order approving a net metering plan jointly submitted by three major utilities and supported by the Office of Regulatory Staff, except that the Commission also requested that the utilities develop a net metering tariff which would give residential net metering customers an additional option: the ability to purchase their power without being billed on a "time of use" basis or paying a demand component.

We requested that the utilities develop an alternative which would allow net metering customers to continue to purchase power on the uniform rate plans which are the choice of the vast majority of customers. The Commission took this action, on its own initiative; because it was concerned that limiting the rate options for net metering customers to a time of use plan would unnecessarily discourage participation in the program.

On November 27th and 28th each of the utilities submitted riders to their existing tariffs in compliance with the Commission's order, with one utility requesting that its net metering tariffs not be made available until June of 2008. No objection was made to the riders. However, the Commission was concerned that the companies' riders were difficult for utility customers to understand. So on February 7th, acting on its own initiative, the Commission voted to direct the utilities to appear in a briefing on February 14th to explain their riders.

If the Commission had not taken this action -- which was designed to provide the Commission and the public with a clear understanding of how these tariffs worked -- the riders would have been routinely approved without a hearing, as are the vast majority of riders and tariffs. On the other hand, we also acted quickly, because we did not want to unnecessarily delay implementation of net metering, in the event that the riders were found to be satisfactory.

Notice of the briefing was provided to all parties, and posted on the Commission's on-line document management system. At the briefing, we heard explanations of the riders from the utilities but no testimony was taken. The purpose of the briefing was merely to explain the submitted riders that were already in the record, so no additional testimony was needed. At the conclusion of the briefing, each of the utilities committed to provide the Commission and the public with a document which clearly explained the operation of their net metering riders and underlying tariffs, which was the Commission's goal in holding the briefing.

Ms. Greenlaw has now requested that the Commission schedule a hearing for the purpose of taking testimony and hearing argument regarding these tariffs. We have also received a petition to intervene out of time filed on behalf of two other individuals for similar purposes. The ORS also objected to the briefing and joined in Ms. Greenlaw's request for a hearing.

I disagree with the ORS's interpretation of the Administrative Procedures Act. The Commission's February 14th briefing was properly noticed under the law. However, I in no way want to give the impression that the Commission is insensitive to public concerns, or that we want to limit public comment on the net metering program. To the contrary, I believe that our actions in this matter show that the Commission has consistently sought to make the net metering program accessible and transparent to the state's utility customers.

Therefore,

1. I move that we direct the staff to schedule a hearing for the purpose of hearing argument and taking testimony regarding the net metering tariffs. The hearing should be scheduled as soon possible, while allowing sufficient time for the parties to respond to, and for the Commission to consider, the petition to intervene recently filed by Elizabeth M. Smith and David O'Dell.

2. I also move that the utilities be ordered to proceed with filing the explanations which they committed to provide on February 14th.

3. Finally, I move that we make a transcript of the February 14th briefing available to the parties and the public free of charge.

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| PRESIDING | <u>Hamilton</u> | | | | Session: | Regular |
| | MOTION | YES | NO | OTHER | Time of Session | <u>2:30 PM</u> |
| CLYBURN | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | | APPROVED | _____ |
| FLEMING | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Absent | APPROVED STC 30 DAYS | _____ |
| HAMILTON | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | | ACCEPTED FOR FILING | _____ |
| HOWARD | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | | DENIED | _____ |
| MITCHELL | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | | AMENDED | _____ |
| MOSELEY | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | | TRANSFERRED | _____ |
| WRIGHT | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | | SUSPENDED | _____ |
| | | | | | CANCELED | _____ |
| | | | | | SET FOR HEARING | _____ |
| | | | | | ADVISED | _____ |
| | | | | | CARRIED OVER | _____ |
| | | | | | RECORDED BY | <u>SCHMIEDING</u> |

Commissioner Fleming was on Annual Leave